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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,188	12/01/2000	Zefu Chen	6122/62344	4504

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EXAMINER

LUGO, CARLOS

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 09/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/728,188

Applicant(s)

CHEN ET AL.

Examiner

Carlos Lugo

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 08 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This is a response to applicant's amendment filed on September 18, 2002.

Drawings

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on May 8, 2002 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(a)(6) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of the connection of the pull rod assembly and the pull latch assembly (elements 40,42,44 and 46). Therefore, the drawings and the proposal amendment to the specification filed on May 8, 2002 will not be considered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1 and 3-10 are rejected** under 35 U.S.C. 103(a) as being unpatentable over the admitted Prior Art disclosed from Page 2 Line 15 to Page 3 Line16 and illustrated on Figure 1 in view of US Pat No 82,863 to Munson et al (Munson).

Regarding claims 1,3,4,6,8 and 9, the prior art discloses a cover latch comprising a pushing bar (2), a handle attached to one end of the bar and a support member attached to the other end of the bar. The latch further comprises a plurality of latches (6) attached to the support member for engaging a catch in the lock position. A

plurality of springs (4) attached to the support member for maintaining the latch in the locked position.

However, the Prior Art fails to disclose a pull rod having a circular cross section, that by the act of pulling the pull rod, the latches are disengaged from the catches. The Prior Art teaches that a user has to push the bar to compress the springs in order to disengage the latches from the catches.

Munson teaches that a latch mechanism comprising a pull a rod (D), having a handle (E), and that by pulling the pull rod, a latch (C) is disengaged from a catch is known in the art. Munson also teaches that the rod that moves the latch mechanism has a circular cross section, attached at its center to a handle (E).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a pulling rod device in order to perform a pulling act, as taught by Munson, into a cover latch as described by the Prior Art, because it will be consider as a design consideration because it will have the same purpose of disengage the latches from the catches in order to open or close the cover.

As to claim 5, the Prior art illustrates that the support member is formed in a U-shape.

As to claim 7, the Prior Art illustrates that the plurality of springs are leaf springs.

As to claim 10, the Prior Art illustrates that the support member and the plurality of latches and springs are formed as a single unit.

5. **Claims 1 and 3-10 are rejected** under 35 U.S.C. 103(a) as being unpatentable over the admitted Prior Art disclosed from Page 2 Line 15 to Page 3 Line16 and illustrated on Figure 1 in view of US Pat No 4,527,711 to Harrell.

Regarding claims 1,3,4,6,8 and 9, the prior art discloses a cover latch comprising a pushing bar (2), a handle attached to one end of the bar and a support member attached to the other end of the bar. The latch further comprises a plurality of latches (6) attached to the support member for engaging a catch in the lock position. A plurality of springs (4) attached to the support member for maintaining the latch in the locked position.

However, the Prior Art fails to disclose a pull rod having a circular cross section, that by the act of pulling the pull rod, the latches are disengaged from the catches. The Prior Art teaches that a user has to push the bar to compress the springs in order to disengage the latches from the catches.

Harrell teaches that a latch mechanism for a container comprising a pull a rod (11), having a handle (12), and that by pulling the pull rod, a latch is disengaged from a catch is known in the art. Harrell also teaches that the rod that moves the latch mechanism has a circular cross section, attached at its center to a handle.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a pulling rod device in order to perform a pulling act, as taught by Harrell, into a cover latch as described by the Prior Art, because it will be consider as a design consideration because it will have the same purpose of disengage the latches from the catches in order to open or close the cover.

As to claim 5, the Prior art illustrates that the support member is formed in a U-shape.

As to claim 7, the Prior Art illustrates that the plurality of springs are leaf springs.

As to claim 10, the Prior Art illustrates that the support member and the plurality of latches and springs are formed as a single unit.

6. **Claim 2 is rejected** under 35 U.S.C. 103(a) as being unpatentable over the admitted Prior Art disclosed from Page 2 Line 15 to Page 3 Line16 and illustrated on Figure 1 and U.S. Pat. No. 82,863 to Munson et al (Munson) in view of U.S. Pat. No. 4,129,325 to Hern et al (Hern).

The Prior Art, as modified by Munson, discloses the invention substantially as claimed. However, the combination fails to disclose the use of an O-ring arranged around the rod to seal an opening in the dispenser.

Hern teaches that a latch mechanism comprising an O-ring (element 86) arranged around the pull rod (element 70) to seal an opening (on the wall 24) through which the rod is pulled using the handle is known in the art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a similar seal element like the one illustrated by Hern, into the combination, in order to prevent humidity or any other element to enter the dispenser.

7. **Claim 2 is rejected** under 35 U.S.C. 103(a) as being unpatentable over the admitted Prior Art disclosed from Page 2 Line 15 to Page 3 Line16 and illustrated on

Figure 1 and US Pat No 4,527,711 to Harrell view of US Pat No 4,129,325 to Hern et al (Hern).

The Prior Art, as modified by Harrell, discloses the invention substantially as claimed. However, the combination fails to disclose the use of an O-ring arranged around the rod to seal an opening in the dispenser.

Hern teaches that a latch mechanism comprising an O-ring (element 86) arranged around the pull rod (element 70) to seal an opening (on the wall 24) through which the rod is pulled using the handle is known in the art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a similar seal element like the one illustrated by Hern, into the combination, in order to prevent humidity or any other element to enter the dispenser.

Response to Arguments

8. Applicant's arguments filed on September 18, 2002 have been fully considered but they are not persuasive.

As to applicant's arguments regarding the use of Munson, Munson is used to illustrate that is known in the art the use of a pulling rod to disengage a latch from a catch.

Furthermore, Harrell teaches a container or dispenser that use a pulling rod to disengage a latch from a catch.

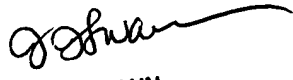
As to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment

on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents cited further show the state of the art with respect to cover latches of containers.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo. The examiner phone number is (703)-305-9747, the fax number is (703)-308-3687 and the examiner email is the following: carlos.lugo@uspto.gov. The examiner can normally be reached on Monday to Friday from 8:00am to 5:00pm. If the examiner is not available, please leave a message, including the application number and the examiner will answer the message as soon as possible.

September 19, 2002


J. J. SWANN
SUPERVISORY PATENT EXAMINER
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